

REMARKS

Claims 1-25 are pending in the above-identified application.

Claims 9 and 11 are original.

Claims 22 to 24 are currently amended.

Claims 1 to 8, 10, 12 to 14, 16 to 21, and 25 are canceled.

Claim 15 is withdrawn (and amended).

Any canceled or deleted subject matter may be reintroduced in future claims without prejudice in the instant application or in future continuation, continuation-in-part, or divisional application(s), if any.

Restriction/Election - 35 U.S.C. § 121

The Examiner has alleged that a restriction to one of Group I-V is required under 35 U.S.C. § 121. Applicants hereby elect without traverse the invention of Group II, Claims 6-11 (in part) and 22-24 (in part).

Claim Rejections - 35 U.S.C. § 112

Claims 22-24 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner alleged that it is not clear whether Claims 22-24 are independent or dependent claims and that they are incomplete as independent claims because they refer to compounds of Formula I without reciting the chemical structure or definitions of variables.

Applicants respectfully traverse this rejection on the grounds that Claims 22 to 24 have been amended to delete the phrase “Formula I” and insert instead the phrase “Claim 9,” which claim recites a chemical structure and defines the variables thereof. Accordingly, Applicants believe that Claims 22 to 24 are patentable under 35 U.S.C. § 112, second paragraph, and thus the rejection is overcome.

Claim Rejections - 35 U.S.C. § 102

Claims 6-8 and 10 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by at least one of the following references: Nickell et al., Yamamoto et al., Beilstein RN 139954, Matsumoto et al., Sakasai et al., Hunt et al., Takahashi et al., Nuenhoffer et al., Prikazchikova et al., Matsumoto et al., Titov et al., Mermann, Schmaizi et al., Beilstein RN786662, and Baader et al. The Examiner alleges that the references disclose compounds that fall within the scope of the rejected claims.

Applicants respectfully traverse this rejection on the grounds that Claims 6-8 and 10 are canceled, rendering their rejection moot.

Claim Objections

Claim 11 is objected to as allegedly being dependent upon a rejected base claim. Applicants note that the subject matter of Claim 11 is allowable.

Applicants respectfully traverse this objection on the grounds that they believe that the objection is unfounded because Claim 11 is not dependent upon a rejected base claim. Claim 11 is written as an independent claim. Accordingly, Applicants believe that Claim 11 is allowable in its present form and that the objection is overcome.

Supplemental Information Disclosure Statement

Applicants herein make available to the Patent and Trademark Office a Supplemental Information Disclosure Statement on forms PTO/SB/08A and/or PTO/SB/08B and copies of the art cited thereon except as noted below. The art for which a copy is not provided is cited in the below table in the column labelled “U.S. Patent Application No. (cumulative, copy not provided).” The copies are not provided because they are cumulative to their corresponding publications, which are also cited on form PTO/SB/08A and copies of which are provided. For convenience, the corresponding publications are identified in the table in the column labelled “Corresponding U.S. Patent Application Publication No.”

U.S. Patent Application No. (cumulative, copy not provided)	Corresponding U.S. Patent Application Publication No.
10/075,918	2002/0156061
10/075,069	2003/0078276
10/071,073	2002/0161000
10/224,234	2003/0087924
10/264,764	2003/0144274

Applicants respectfully request that the Examiner consider carefully the complete text of the cited reference(s) in connection with the examination of the above-identified application in accord with 37 CFR §1.104(a).

It is respectfully requested that all cited reference(s) considered by the Examiner be listed in the "References Cited" portion of any patent issuing from the instant application (MPEP § 1302.12).

Benefit of Priority Under 35 U.S.C. § 119(e)

Applicants have amended the specification to add a cross-reference to the domestic priority application under 35 U.S.C. § 119(e), United States Provisional Patent Application number 60/268,779, filed February 14, 2001. Applicants claim for domestic priority was originally made in the paper titled, "Declaration and Power of Attorney for Patent Application" that was filed with the instant specification on February 13, 2002.

Conclusion

Applicants respectfully request entry of the above amendments to the specification and claims and reconsideration of Claims 9, 11, and 22 to 24 in view of the above remarks.

In the event that Claim 9 is allowed, Applicants respectfully request consideration of Claim 15, a pharmaceutical composition comprising a compound of Claim 9. Claim 15 would likely be patentable also. Applicants believe that this would not be an undue burden on the Examiner because the Examiner's search of the art for examination of the compound of Claim 9 should be useful for examination of its pharmaceutical composition.

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to deposit account number 23-0455.

The undersigned would welcome a telephone call from the Examiner to discuss any matters related to this case that the Examiner thinks are amenable to resolution by such discussion.

Respectfully submitted,

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